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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,692

09/19/2003

Dean L. McClymonds

13.27461

4706

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7590

09/28/2006

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EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/664,692

Applicant(s)

MCCLYMONDS, DEAN L.

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 7-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

***Claim Objections***

1. Claim 1 is objected to because of the following informalities: the amendment made in line 9 appears to have been mis-placed. Appropriate correction is required.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al. 6,609,356 in view of Lamela et al. 6,663,114 and Chen et al. 4,694,639.

4. Fackrell et al. discloses a mowing device having:

- A frame (14, 16)
- A deck (11) attachable to the frame (14, 16) at different heights
- A cutting blade (178)
- A first pair of wheels (165, 168) attached to the right side of the frame (14)
- A second pair of wheels (165, 167) attached to the left side of the frame (16)
- a two cycle gasoline engine (20).

However, Fackrell et al. fails to disclose:

- A first hydraulic motor mounted on the right side of the frame connected to a first remotely controlled hydraulic pump and to each wheel of the first pair of ground wheels

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- A second hydraulic motor mounted to the left side of the frame connected to a second remotely controlled hydraulic pump; operated independently of the first hydraulic pump, and connected to each wheel of the second pair of ground wheels
- a remotely controlled internal combustion engine mounted on the deck
- a remotely controlled clutch connecting the engine to a blade.

Lamela et al. discloses a vehicle including:

- A first hydraulic motor (not shown) mounted on the right side of the frame connected to a first hydraulic pump (106) and to each wheel of the first pair of ground wheels (102)
- A second hydraulic motor (not shown) mounted to the left side of the frame connected to a second hydraulic pump (108), operated independently of the first hydraulic pump (106), and connected to each wheel of the second pair of ground wheels (102, see column 2, lines 23-28 and column 6, lines 49-52 and column 13, lines 18-24).

Chen et al. discloses a remotely controlled mower and teaches that it is known to use radio controls for controlling the clutch and engine of a lawn mower (see column 6, lines 33-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the left and right sided drives of Lamela et al. on the device of Fackrell et al. in order to allow the vehicle to rotate in place.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control as taught by Chen et al. for the speed and direction control and for the engine and clutch of the mowing device of Fackrell et al. in order to that the operator does not need to follow or push the lawn mower.

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5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al., Lamela et al. and Chen et al. as applied to claim 7 above, and further in view of Cartner 4,445,312.

6. The device is disclosed as applied above. However, the combination fails to disclose a retractable segment on the deck and remotely controlled means for raising and lowering the retractable segment.

Cartner discloses a mower with a retractable segment (80) that can be raised and lowered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the retractable segment of Cartner on the device of Fackrell, Lamela et al. and Keller in order to reach small trees or saplings.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Chen et al. for the retractable segment control in order to relieve physical exertion and discomfort.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 7-10 have been considered but are moot in view of the new ground(s) of rejection.

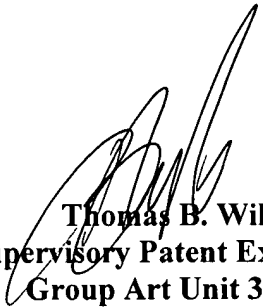
### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
September 24, 2006